AEMC: Draft determination Strengthening standards for payment difficulty assistance

Prepared **by**

COTA Australia

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About COTA Australia

COTA Australia is the peak body representing the almost nine million Australians over 50. For over 65 years our systemic advocacy has been improving the diverse lives of older people in policy areas such as health, retirement incomes, and more. Our broad agenda is focussed on tackling ageism, respecting diversity, and the empowerment of older people to live life to the full.

COTA Australia Energy Advocates is a panel of consumers, consisting of representatives from each State and Territory jurisdiction in the National Energy Market. The panel is coordinated by COTA Australia

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Contents

About COTA Australia **2**

Introduction **4**

Recommendations **5**

Support for prohibiting documentary evidence requirements **6**

Support for more affordable and tailored payment plans **7**

A. Retailer to offer payments plans they reasonably believe are affordable 7

B. Review and updating of payment plans 8

Improving accessibility and communication **10**

Conclusion **11**

Introduction

COTA Australia and the COTA Australia Energy Advocates welcome the opportunity to provide feedback on the Strengthening standards for payment difficulty assistance draft rule determination published by the Australian Energy Market Commission (AEMC).

We represent and advocate for the interests of Australians aged 50 and over, many of whom who are affected by cost-of-living pressures, higher healthcare demands and facing growing challenges in accessing affordable energy. As evidenced by COTA Australia's State of the Older Nation 2025 (SOTON25),[1] many older Australians live on modest household budgets with 1 in 4 (25%) living in poverty. Unlike most working-age consumers, older Australians have limited, if any, opportunities to increase earnings in response to rising living costs or unexpected expenses.

Affordable access to energy is essential to the health, wellbeing and independence of all people living in Australia especially those who are older and/or experiencing complex health and wellbeing issues. Connection to a reliable and affordable energy supply is vital and, in many instances, a critical enabler to supporting older people to live safely, remain in their homes, manage health conditions and remain engaged members in community life.

We offer strong in principle support for the draft rule determination's (draft rule) two overarching proposals:

1. Banning [retailers from requiring] documentary evidence to assess payment difficulty assistance
2. Making payment plans more affordable.

The proposed reforms are critical to strengthening energy consumer protections and ensuring consumers can access support when they need it.

While the draft rule is thoughtfully oriented towards supporting consumers experiencing payment difficulty, further strengthening is necessary to ensure it adequately addresses the diverse circumstances and needs of consumers. For many older Australians, energy affordability is shaped by factors such as fixed incomes, limited capacity to increase earnings, higher energy needs related to health or mobility, as well as significant life transitions including retirement or bereavement. Standard approaches to assessing payment difficulty, although easy to administer, have a tendency to mask or ignore the specific issues and challenges that are more likely to be present in an individual's life as they age.

[1] COTA Australia and SEC Newgate Research, *State of the Older Nation 2025* (SOTON25), COTA Australia, March 2026. Available at: cota.org.au

Our engagements with older energy consumers confirm that stronger standards for payment difficulty assistance should explicitly consider older energy consumers, who may not readily identify as 'hardship' customers. As was clearly conveyed in our Cost-of-Living survey's qualitative responses, many older people are reluctant to seek help. Rather they will endeavour to pay energy bills by cutting back on heating, cooling, food, health care, transport and/or social activities, rather than disclose payment difficulty to a retailer.

Our submission focuses on the new provisions introduced in the AEMC's draft rule. While the proposed framework requires further refinement and strengthening, we consider it is *preferable* to the approach set out in the Australian Energy Regulator's December 2025 rule change request.

Recommendations

That the AEMC's final rule ensures a clear and enforceable obligation on retailers to:

1. ensure access to payment assistance be readily available on a customer's declaration or self-disclosure of payment difficulty. Retailers should not be permitted to require documentary evidence to confirm eligibility.

2. conduct a comprehensive capacity-to-pay assessment based on a customer's overall circumstances and use the information provided to tailor appropriate payment assistance that supports the customer's ongoing connection to a reliable energy supply.

3. review proactively a customer's payment difficulty assistance arrangement, based on new rather than past information, ensuring that the assistance provided is appropriate, effective and responsive to the customer's changed circumstances.

4. conduct a fresh assessment of a customer's existing assistance arrangement when there is a known or requested change, and be prohibited from implementing changed payment arrangements without the customer's, or their authorised representative's, explicit informed consent

5. deliver payment difficulty assistance through accessible and inclusive communication practices, including multi-channel engagement, plain-language information, access to trained staff, as well as support for authorised representatives, carers and support persons

6. provide additional payment difficulty assistance to customers with little or no capacity to repay arrears. Rather than repeatedly establishing or extending payment

plans that are not affordable, retailers should be required to explain and offer available assistance options that are more responsive to the customer's financial circumstances and capacity-to-pay.

Support for prohibiting documentary evidence requirements

We strongly support the AEMC's proposed prohibition on retailers requiring documentary evidence as a precondition for providing payment difficulty assistance. This represents a critical step forward for all energy stakeholders, especially for consumers on low to modest incomes and likely to be disproportionately juggling cost of living pressures. Importantly, the proposal aligns the energy market's financial hardship assistance arrangements more closely with the aims of Australia's Energy Charter, the National Energy Retail Objective and the principles of accessibility, dignity and consumer-centred service delivery.

For energy consumers facing energy hardship, including many who are older, satisfying documentary evidence requirements can be onerous. This is especially the lived experience of Australians, including a disproportionate number of older people, who have limited mobility, reduced access to digital technologies, limited confidence using online systems, and/or health and wellbeing conditions which can make gathering and submitting documentation a challenge. In addition, the requirement to provide documentary evidence can deter people from seeking assistance. For many older people, the desire to maintain independence, together with concerns about privacy and stigma, can lead them to delay seeking assistance or avoid doing so altogether.

The proposed change will make a solid contribution to ensuring energy customers receive assistance more quickly and lessen the likelihood that financial difficulties escalate unnecessarily before support is provided.

The final rule should make clear that a customer's declaration or self-disclosure of payment difficulty to a retailer is sufficient to access payment assistance. Retailers should not be permitted to require additional documentary evidence to establish eligibility. The only exception should be where information is legally required to determine eligibility for a separate government concession, rebate or energy assistance program.

This approach recognises that access to assistance and assessment of affordability serve different purposes and should not be treated as interchangeable. Access to assistance should be triggered by a customer's disclosure of experiencing payment difficulty. This ensures the need for support is readily established without unnecessary barriers. Requiring detailed financial information as precondition for verifying the disclosed need for assistance can inordinately delay support and may discourage engagement, particularly when people are in throes of heightened financial and/or psychological distress.

Assessing affordability is distinct. An affordable payment arrangement should be determined by a customer's individual circumstances and capacity to pay, not by whether assistance has been accessed or offered.

Maintaining this distinction is particularly important for customers experiencing severe or persistent financial stress. In some cases, available assistance may be insufficient to make a repayment arrangement affordable. Access to support should not be contingent on demonstrating an ability to meet a particular repayment amount, nor should the availability of assistance be taken as evidence that a proposed payment arrangement is affordable.

Support for more affordable and tailored payment plans

A. Retailer to offer payments plans they reasonably believe are affordable

The AEMC's proposal to strengthen retailer obligations to understand what constitutes an affordable payment for each energy customer is a much-needed reform. It will strengthen and reinforce the protections that should be available to all consumers experiencing financial hardship, ensuring better alignment with individual circumstances.

As part of this requirement, it is essential retailers respectfully and confidentially use the information provided by customers about their capacity-to-pay, to meet their obligation to offer payment plans that they reasonably believe are affordable.

We also support the Ombudsmen's December 2025 submission stating that payment plans should not be changed without the customer's, or their authorised representative's, knowledge and explicit informed consent. Any changes should be clearly communicated and agreed to by the customer to support autonomy, confidentiality and transparency. However, these requirements should not create procedural barriers that delay the timely review, adjustment or implementation of payment plans.

For older consumers, affordability often extends beyond consideration of current energy debt; understanding financial capacity needs to comprise a broader range of pertinent factors, including, but not limited to:

- ongoing healthcare and pharmaceutical costs
- disability-related expenses
- transport barriers
- caring responsibilities
- housing costs
- an inability to afford the transition to renewable energy options

- higher energy costs resulting from poor housing thermal efficiency
- energy consumption associated with medical equipment and chronic health conditions.

An assessment process that focuses primarily on the amount overdue, rather than an individual's overall circumstances, will produce payment plans that are easy to administer and readily identify noncompliance. However, if the financial repayment arrangement is to be workable, the retailer needs to consider the person's circumstances holistically and be confident that the arrangement will not leave the individual facing increased financial distress.

The final rule should impose a clear and enforceable obligation on retailers to undertake an inclusive assessment of the circumstances impacting a customer experiencing financial distress. This will help ensure that capacity-to-pay assessments are not based on narrow or inconsistent measures, but on an insightful and responsive understanding of a customer's overall circumstances. This will ensure fairer, more personalised and appropriate support arrangements for customers experiencing financial difficulty and respectfully enable their ongoing connection to a reliable energy supply.

B. Review and updating of payment plans

We agree with the draft rule's requirement that retailers must review and update payment plans when they become *reasonably aware* that a customer's circumstances have changed. The review must be focused on the new information regarding a customer's circumstances, including their capacity to pay, arrears owing and expected energy consumption needs. Also, it is imperative that a review occurs when it is requested by a customer. While moving in the right direction to ensuring payment plans remain relevant and responsive to a customer's current circumstances, the requirement for retailers to respond continues to be largely reactive.

This position needs to be further strengthened to ensure the review process operates more strategically. In its current form, the effectiveness of a review is contingent on a retailer becoming *reasonably aware* of changes in a customer's circumstances, or a customer requesting a review. Reliance on customer-initiated reviews is problematic. In practice, many consumers experiencing financial hardship are unlikely to seek a review of their payment difficulty arrangements in a timely manner, if at all.

This is especially relevant for older Australians, many of whom are reluctant to seek assistance and will often exhaust other options before approaching a retailer for support. Rather than requesting an energy payment review, they are more likely to reduce spending on non-discretionary goods and services, draw down limited savings, or go without everyday

necessities to keep up with energy payments. As a result, significant changes in a customer's financial circumstances may go unrecognised, leaving them on payment plans that are no longer affordable or appropriate.

A more proactive review approach would provide greater assurance that payment difficulty assistance is responsive to customers' current circumstances and complements the intended objective of supporting those experiencing financial difficulty. However, the review process should occur without creating additional burdens for customers.

The final rule should expressly include examples of changed circumstances that trigger a review of an existing payment plan. Clear guidance is necessary to ensure that customers experiencing increased personal challenges, as well as those whose circumstances have improved, are not left on arrangements that no longer indicate their capacity to pay. Without such provisions, there is the increased likelihood that unsuitable payment plans persist, increasing the prospect of payment difficulty and avoidable debt accumulation. Including illustrative review triggers would promote consistent retailer practices and help ensure payment arrangements remain responsive, affordable and sustainable.

At a minimum, retailers should be required to review a payment plan when:

- a customer has missed several scheduled payments or, on consecutive occasions, only managed to make partial payments
- a marked change is evident in a customer's energy usage, although low consumption alone should not be treated as evidence of financial hardship
- a retailer is aware that a customer is experiencing a significant life event, such as hospitalisation, serious illness, disability, bereavement or loss of household income
- eligibility changes for concessions, rebates or government assistance programs are to be introduced

It is critical that indicators of hidden energy hardship remain high on a retailer's proactive financial hardship radar. As noted above, many older Australians address increased financial pressure by self-rationing essential goods and services to unsafe levels. While these consumers may not necessarily miss energy payments, they may nevertheless be experiencing significant hardship. Where retailers identify unusually low consumption patterns, they should be required to proactively engage with the customer and review whether additional payment assistance is required.

Importantly, payment plan reviews:

a) should involve a holistic assessment of a customer's current capacity-to-pay, be a fresh assessment of the customer's current circumstances and not based primarily on information obtained during a previous payment difficulty assessment

b) must require that retailers not change a customer's plan without the latter's (or their authorised representative/s) knowledge or explicit informed consent

c) should not require a customer to repeatedly recount their circumstances.

Improving accessibility and communication

In addition to our comments on opportunities to further strengthen the draft rule, we wish to highlight the important role of the communication/accessibility dynamic in ensuring consumers can benefit from the protections available to them. Effective consumer protections depend not only on the availability of assistance, but also on consumers being able to readily access, understand and engage with that assistance.

We strongly support the premium that the AEMC places on supporting positive consumer outcomes. As the energy market continues to evolve and retailers increasingly adopt digital engagement channels, it is vital that communication approaches recognise and remain responsive to the diverse needs and preferences of consumers.

Many older Australians continue to experience varying levels of digital exclusion. Some prefer to engage by telephone or post, while others rely on carers, family members or authorised representatives to assist with managing accounts and addressing payment difficulties. Clear, accessible and flexible communication arrangements can contribute significantly to ensuring consumers are aware of available support and are able to engage with retailers in a way that best suits them.

To support the effective implementation of the final rule, the AEMC could consider reinforcing the expectation that retailers:

- provide information about payment assistance through a range of communication channels, including telephone, post and email
- communicate assistance options in clear, plain language
- ensure consumers can access appropriately trained staff who can discuss available assistance options in a respectful and timely manner
- facilitate engagement with authorised representatives, carers and support persons who assist consumers in managing their energy accounts.

These measures would help to ensure the benefits of the proposed reforms are accessible to all consumers, regardless of their preferred communication method and/or level of digital literacy.

Conclusion

We strongly support the direction taken by the AEMC in the Strengthening standards for payment difficulty assistance draft determination. The proposed reforms will help remove unnecessary barriers to assistance, improve consistency across retailers and strengthen the affordability and sustainability of payment arrangements for consumers experiencing payment difficulty.

However, it is important to recognise that older Australians face a distinct set of challenges that can increase their exposure to energy hardship. Fixed incomes, higher healthcare costs, changing health circumstances, digital exclusion and greater reliance on energy to support safe and independent living mean a one-size-fits-all approach is highly unlikely to deliver reasonably equitable outcomes.

The AEMC should build on the strong foundations established in its draft rule by amplifying the acknowledgement that financial difficulty is not simply a matter of catching up on overdue payments. For many consumers, financial hardship is a complex and multifaceted experience shaped by a range of personal, health, social and economic circumstances. This is particularly relevant for older consumers, who may face unique challenges that can affect their ability to manage energy costs and engage with assistance measures. Recognising these broader circumstances will help ensure the final rule delivers meaningful and effective support to those who need it most. It is important that the final rule in reducing barriers to payment difficulty assistance also makes a solid contribution to ensuring that the support provided is underpinned by a clear and respectful recognition of the diverse needs of Australian energy consumers.